IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

WP(C).No. 29460 of 2007(F)

AGAINST THE ORDER IN EA 784/07 IN EP 233/07 IN RCP.23/2006 of PRL.M.C.,ERNAKULAM

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PETITIONER:

SEBASTIAN F.X., S/O.XAVIER,
AGED 48 YEARS, RESIDING AT FLAT
'R' BUILDING NO.35/1881, DEV.CHAMBERS,
JANATHA JN., PALARIVATTOM, KOCHI-35.

BY ADV. SRI.SREEJITH S.NAIR

RESPONDENT:

M.S.PUSHPAKUMARI, PENSIONER,
W/O.N.P.VASUDEVAN, PUSHPAVIHAR,
KAKKANAD, KOCHI-30.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JP

K.BALAKRISHNAN NAIR &

T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) NO. 29460 OF 2007-F

Dated 4th October, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioner challenges Ext.P2 order of the Rent Controller in E.A.No.784/2007 in E.P.No.233/2007 in R.C.P. No.23/2006. He is the tenant. The R.C.P was allowed, ordering eviction. The landlord filed E.P.No.233/2007 to execute the order of the Rent Controller. The petitioner filed appeal. The appellate authority granted stay of execution, on condition the petitioner pays the arrears of rent within one month. The petitioner failed to pay the amount within the said time limit. He did not apply for extension of time before the appellate authority also. Therefore, the executing court proceeded with the E.P. So, the petitioner filed E.A.No.784/2007, praying for three months' time to vacate the premises. The said E.A was considered and with the consent of the landlord, he was granted time up to 5.10.2007. The petitioner challenges the said order and prays for some more time to vacate the premises.

2. This Court can interfere with Ext.P2 order, if it is shown that the said order is outside the jurisdiction. We notice that it is perfectly within jurisdiction. If the petitioner had paid the amount as directed by the appellate authority, he could have avoided eviction till the disposal of the appeal. If he was not able to pay the amount, he could have moved the appellate authority for extension of time also. Without doing that, he has moved the Rent Controller. The Rent Controller is not a free agent to grant extension of time according to his whims and fancies. Therefore, he granted only two weeks' time to vacate the premises. We find no jurisdictional error in that order. Accordingly, the writ petition fails and it is dismissed.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Nm/